



## The Family Business in Divorce

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- Typically, during a relationship, the parties may have conducted a business through a Trust or company, or alternatively, have an interest in a business conducted by family members.
- The spouse's interest in that business needs to be identified and valued as part of the property settlement process.
- If the business is conducted through a Trust structure, then often the first question is whether the assets of that Trust should be treated as assets of the parties and this depends upon whether who controls the Trust and whether the assets have been built up primarily during the relationship.
- If a business is conducted through a company, then typically, it is the shares in that company that the party and/or parties hold that need to be identified as property and need to be valued in order to value a spouse's share in a company, one will usually need to value the company overall.
- There is no rule or presumption that a family business must be sold and it is simply a piece of property that needs to be identified and valued and taken into account in relation to other assets and liabilities and the divisions of those assets and liabilities will depend upon many factors relating to contributions and the like.
- The valuation of the business interests is usually conducted by an independent forensic accountant in the Family Court sphere who has experience and expertise in this area.